

Serial No. ~~10/307,099~~
Art Unit No. ~~2876~~

REMARKS

Claims 1-36 are currently pending in the patent application. The Examiner has objected to the drawings, has rejected Claims 10-27 under 35 USC 112 as indefinite; and, has rejected Claims 1-36 under 35 USC 103 as unpatentable over Coley in view of Belissent.

In response to the rejection of the drawings, Applicants submit herewith replacement drawings which do not include the objectionable line and ink forms. Formal versions of the replacement drawings will be submitted once the drawings have been approved by the Examiner.

With regard to the rejection of Claims 10-18 and 19-27 are redundant based on Claims 1-9, Applicants herein submit amendments to Claims 10-27 to address the redundancy concern.

The Examiner has rejected all of the claims as being unpatentable over the combined teachings of Coley and Belissent. Applicants first note that the effective date of the Belissent patent is after the date of the invention of the present invention by Applicants. Applicants can submit a Declaration of Prior Invention, but will not submit one at

YOR920010054-US1

-14-

Serial No. 10/307,099
Art Unit No. 2876

this time, since Applicants believe that the invention is patentably distinct from the cited references.

The present application teaches and claims apparatus, a method, a processor, and a program storage device for data processing wherein bit streams of data exchanged between a network resource server and a data network are passed through a network processor. The network processor monitors the data flow rate of data passing through it. A first derivative of the data flow rate is computed to determine the rate of change of the data flow rate and actions are taken based upon the rate of change of the data flow rate. Actions taken include selectively discarding data flowing toward the network resource server (Claims 28-35), or modifying instructions loaded into the instruction memory in response to the determined rate of change (Claims 1-27 and 36).

Applicants respectfully assert that the invention as claimed is not rendered obvious by the cited references. The Coley patent is directed to a firewall system for protecting network elements connected to a public network. The firewall (210 of Fig. 2) is disposed between the network (202) and the network elements (216 and 218) to be protected. Additionally disposed between the firewall and

YOR920010054-US1

-15-

Serial No. 10/307,099
Art Unit No. 2876

the computer network is a so-called "publicly accessible system" including a web server, port and e-mail. The Examiner contends that the firewall 210 is analogous to the claimed network processor coupled to a network server (see: the top of page 4 of the Office Action). The Examiner cites the illustrated firewall 210 and the teachings found in Col. 7 against the claimed network processor comprising a plurality of interface processors, instruction memory, data memory and a plurality of input/output (hereinafter "I/O") ports. However, the Coley patent clearly teaches in Col. 7 that the firewall is an application. Coley does not teach or suggest that its firewall 210 has a plurality of processors, instruction memory and data memory and a plurality of I/O ports.

Further, the Examiner states that the one of the I/O ports is for exchanging data passing through the network processor, citing 206 as the network processor, with an external network. The Examiner has, therefore, cited two different components of the Coley system, firewall 210 and the "publicly accessible system" 206 (including the web server and e-mail system), against the network processor of the claims. Moreover, the Coley component 206 with its "internal network port" is not part of the firewall system

YOR920010054-US1

-16-

Serial No. 10/307,099
Art Unit No. 2876

and does not operate under the direction of interface processors which are part of a firewall, since Coley does not teach or suggest that the firewall comprises interface processors.

Applicants further assert that the Coley patent does not teach or suggest the claimed feature of monitoring data flow addressed to the network server and modifying instructions based on the data flow, as the Examiner concludes at the bottom of page 4 and top of page 5 of the Office Action. What the cited teachings of Coley describe, at Col. 6, lines 5-20, is that the firewall application provides proxies to verify incoming access requests to ascertain if the requester is authorized to access the network components behind the firewall. Coley does not teach or suggest that the incoming data rate be monitored nor does Coley teach or suggest taking actions based on a data flow rate of change derived from the data flow rate. Packet filtering as taught by Coley in Col. 6, at lines 48-50 does not teach or suggest modifying instructions. Moreover, the cited line 65 from Col. 7, simply mentions a set of verification tests, which does not teach or suggests a step or means to modify instructions.

YOR920010054-US1

-17-

Serial No. 10/307,099
Art Unit No. 2876

The Examiner has acknowledged, at the top of page 5, that the Coley patent does not teach or suggest monitoring the rate of data flow addressed to a network resource server, deriving data flow rate over time to determine the rate of change of data flow, and modifying instructions based on the derived data flow rate over time. The Examiner has cited the Belissent patent which teaches a method for thresholding and throttling client connection requests to prevent denial of service (DoS) attacks. Applicants first note that one having ordinary skill in the art would not look to modify the Coley patent with the teachings of the Belissent patent. Since Coley provides a firewall to prevent unauthorized users from obtaining access to the network components located behind the firewall, no attacker would have access to the network components to flood the components with requests in such a way as to cause a DoS situation. Denial of Service (DoS) attacks are directed against publicly accessible components, and operate by flooding the publicly accessible components (e.g., the web server of 206 in Coley) with requests to overwhelm the server. Since Coley does not allow unauthorized requests to get past the firewall, there would be no way for a DoS attacker to get the requests past the firewall.

YOR920010054-US1

-18-

Serial No. 10/307,099
Art Unit No. 2876

Accordingly, there would be no reason for Coley to modify its firewall to include a component which determines a connection request rate in accordance with the teachings of Belissent.

Moreover, Applicants believe that even if one were to modify Coley with Belissent, one would not arrive at the invention as claimed. Since neither Belissent nor Coley teaches computing the derivative of a monitored data flow rate to determine a rate of change of data flow, and since neither teaches taking action based on a determined rate of change of data flow, it cannot be concluded that a Coley system having a Belissent connection request flow thresholding component would obviate the invention as claimed. If one were to modify Coley to include a component for determining a connection request rate at its firewall, one would still not have means or steps for monitoring the rate of data flow addressed to the network resource server, at least one interface processor component computing a derivative of data flow rate over to time determine the rate of change of data flow and for either modifying instructions or discarding data based on the determined rate of change of data flow. Accordingly, Applicants conclude that the

YOR920010054-US1

-19-

Serial No. 10/307,099
Art Unit No. 2876

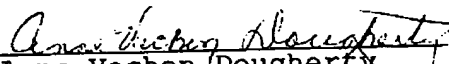
Examiner has not established a *prima facie* case of obviousness.

Based on the foregoing amendments and remarks, Applicants respectfully request entry of the amendments, reconsideration of the amended claim language in light of the remarks, withdrawal of the rejections, and allowance of the claims.

Respectfully submitted,

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YOR920010054-US1

-20-